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REFERENCE TITLE: wine shipment; limited allocation

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

SB 1236

Introduced by
Senators Leff, Chevront; Representative Reagan: Senator Allen;
Representatives Barnes, Stump

AN ACT

AMENDING SECTION 4-203.04, ARIZONA REVISED STATUTES; RELATING TO SPIRITUOUS LIQUOR LICENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 4-203.04, Arizona Revised Statutes, is amended to
3 read:

4 4-203.04. Direct shipment license; issuance; fee; requirements;
5 penalties; cease and desist orders; definitions

6 A. The director may issue a direct shipment license to a person who is
7 engaged in business as a distiller, vintner, brewer, rectifier, blender or
8 other producer of spirituous liquor if the person is licensed in the state
9 where the person's principal place of business is located and the director
10 determines that the person is capable and reliable and is qualified to hold a
11 direct shipment license.

12 B. A person shall apply for a direct shipment license on a form
13 prescribed by the director. The director may charge an application fee. In
14 addition to other matters required by the director, an application for a
15 direct shipment license shall include:

16 1. The address of the premises where the applicant's principal place
17 of business is located and a copy of the applicant's spirituous liquor
18 license in that state.

19 2. The name, address and telephone number of an officer of the
20 applicant who is authorized to represent the applicant before the director.

21 3. A complete and full disclosure by the applicant and by any officer,
22 director, administrator or controlling person of the applicant of any
23 criminal convictions in any state or foreign jurisdiction within the five
24 years immediately preceding the application.

25 4. The names and addresses of the wholesalers licensed in this state
26 through which the applicant will ship spirituous liquor into or within this
27 state.

28 5. The number of individual orders of spirituous liquor, if any, that
29 the applicant shipped to wholesalers in this state during the previous three
30 years and the names and addresses of each wholesaler who received the
31 shipments.

32 6. A statement that the applicant acknowledges that shipments by the
33 applicant of spirituous liquor into or within this state contrary to this
34 section will result in the immediate suspension of the applicant's direct
35 shipment license.

36 C. The director may refuse to issue a direct shipment license for good
37 cause. After a hearing, the director may suspend or revoke a direct shipment
38 license for good cause. The director shall not issue a direct shipment
39 license to any person who:

40 1. Has had a direct shipment license or any license to deal in
41 spirituous liquor revoked in this state or any other state within one year
42 preceding the application.

43 2. Has been convicted of a felony in this state or any other state or
44 has been convicted of an offense in another state that would be a felony if
45 convicted in this state within five years preceding the application.

1 D. A direct shipment license is valid for three years. Direct
2 shipment licenses may not be renewed or transferred. A person who holds a
3 direct shipment license may apply for a new license not more than ninety days
4 before expiration of the person's current license.

5 E. A resident of this state who is twenty-one years of age or older
6 may place an order in person, by telephone, mail or catalog or on the
7 internet for spirituous liquor for the person's own personal use with a
8 person who holds a direct shipment license.

9 F. A person who holds a direct shipment license shall ensure that
10 shipments of spirituous liquor pursuant to this section are made in
11 conformance with all applicable provisions of this title and rules adopted
12 pursuant to this title. A direct shipment licensee who violates this title
13 or rules adopted pursuant to this title is subject to a civil or criminal
14 penalty and suspension or revocation of the person's license.

15 G. A person who holds a direct shipment license shall deliver
16 spirituous liquor ordered pursuant to subsection E of this section to a
17 wholesaler who is licensed in this state. The wholesaler shall pay all
18 luxury taxes imposed on the shipment pursuant to title 42, chapter 3 to the
19 department of revenue and shall deliver the liquor to a retailer with
20 off-sale privileges who is licensed in this state.

21 H. The licensed retailer shall deliver the spirituous liquor or shall
22 arrange for the delivery of the spirituous liquor to the person who placed
23 the order and shall collect and pay to the department of revenue all
24 transaction privilege taxes imposed pursuant to title 42, chapter 5. The
25 retailer shall:

26 1. Ensure that:

27 (a) The person making the delivery is twenty-one years of age or
28 older.

29 (b) The delivery occurs only during the hours that spirituous liquor
30 may be lawfully served in this state.

31 (c) Deliveries are not made to persons who are obviously intoxicated
32 or are otherwise disorderly.

33 (d) The person accepting the delivery is twenty-one years of age or
34 older and exhibits an acceptable written instrument of identification
35 pursuant to section 4-241.

36 2. Make a record of the delivery at the time of delivery on a form
37 approved by the director of the department of liquor licenses and control.
38 The record shall be retained by the retailer for at least two years and shall
39 include the following information:

40 (a) The business name, address and license number of the retailer.

41 (b) The date and time of delivery.

42 (c) The address where the delivery occurred.

43 (d) The type, brand and amount of the spirituous liquor delivered.

44 (e) The printed name and signature of the person making the delivery.

1 (f) The printed name and signature of the person accepting the
2 delivery, along with the type and serial number of the written identification
3 the person accepting delivery presented.

4 (g) The age of the person accepting delivery.

5 3. Refuse to complete a delivery if the retailer believes that the
6 delivery would violate any applicable provision of this title.

7 I. If the director has reasonable cause to believe that a person who
8 is licensed pursuant to this section is acting in violation of this section,
9 the director may serve a cease and desist order requiring the person to cease
10 and desist the violation. The director may impose a civil penalty of not
11 more than one hundred fifty thousand dollars against a person who knowingly
12 violates a cease and desist order issued pursuant to this section.

13 J. This section shall not be construed to prohibit a person from
14 shipping wine as long as all of the following apply:

15 1. The wine was purchased while the purchaser was physically present
16 at the winery.

17 2. The purchaser of the wine provided the winery verification of legal
18 age to purchase alcohol.

19 3. The shipping container in which the wine is shipped is marked to
20 require an adult's signature on delivery and delivery confirmation.

21 4. The wine is for personal use only and not for resale.

22 5. The winery ships to a residential address.

23 6. The purchaser could have carried the wine lawfully into OR WITHIN
24 this state.

25 7. The winery ships not more than two cases of wine per winery to the
26 purchaser in any calendar year.

27 K. THIS SECTION SHALL NOT BE CONSTRUED TO PROHIBIT A PERSON FROM
28 SHIPPING LIMITED ALLOCATION WINE THAT IS ORDERED BY TELEPHONE, MAIL OR
29 CATALOG OR THROUGH THE INTERNET IF ALL OF THE FOLLOWING APPLY:

30 1. THE WINE IS PURCHASED FROM A LIMITED PRODUCTION WINERY.

31 2. THE PURCHASER OF THE WINE PROVIDED THE WINERY VERIFICATION OF LEGAL
32 AGE TO PURCHASE ALCOHOL.

33 3. THE SHIPPING CONTAINER IN WHICH THE WINE IS SHIPPED IS MARKED TO
34 REQUIRE AN ADULT'S SIGNATURE ON DELIVERY AND DELIVERY CONFIRMATION.

35 4. THE WINE IS FOR PERSONAL USE ONLY AND NOT FOR RESALE.

36 5. THE WINERY SHIPS TO A RESIDENTIAL ADDRESS.

37 6. THE PURCHASER COULD HAVE CARRIED THE WINE LAWFULLY INTO OR WITHIN
38 THIS STATE.

39 7. THE WINERY SHIPS NOT MORE THAN TWO CASES OF WINE PER WINERY TO THE
40 PURCHASER IN ANY CALENDAR YEAR.

41 ~~K.~~ L. Section 4-201 does not apply to licenses issued pursuant to
42 this section.

1 M. FOR THE PURPOSES OF THIS SECTION:

2 1. "LIMITED ALLOCATION WINE" MEANS WINE THAT IS SOLD DIRECTLY TO
3 CONSUMERS WHO PUT THEMSELVES ON A LIST TO BE CONTACTED FOR THE PURPOSE OF
4 PURCHASING WINE FROM A WINERY.

5 2. "LIMITED PRODUCTION WINERY" MEANS A WINERY THAT PRODUCES FEWER THAN
6 FIVE THOUSAND CASES OF WINE IN A TWELVE MONTH PERIOD.